IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 22840 of 2006(R)

EP.461/2004 of MUNSIFF COURT, HOSDRUG
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PETITIONER:

K.V. MEENAKSHI, D/O.KUNHIKANNAN,
KULLORAVIL IN KANHANGAD VILLAGE,
P.O. KANHANGAD SOUTH.

BY ADV. SRI.SURESH KUMAR KODOTH
SMT.V.SETHUKUTTY AMMA

RESPONDENT:

THE HOSDURG SERVICE CO-OPERATIVE
BANK LTD. 1068, HOSDURG P.O., KANHANGAD,
HOSDURG TALUK, KASARGOD DISTRICT.

BY ADV. SRI.A.DINESH RAO

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.22840/2006 R

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **CERTIFIED COPY OF THE EXECUTION PETITION NO.461/2004 AND ORDERS THEREON.**

EXT.P2: **COPY OF THE E.A.NO.21/2006.**

EXT.P3: **COPY OF THE APPEAL MEMORANDUM BEFORE THE SUBORDINATE JUDGE'S COURT, HOSDURG.**

EXT.P4: **COPY OF THE E.A.NO.151/2006 SUPPORTED BY AFFIDAV IT AND THE ORDERS THEREON.**

/TRUE COPY/

KSS

M.N.KRISHNAN, J

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W.P.(C) No.22840 OF 2006

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Dated this the 1st day of June, 2007

JUDGMENT

This writ petition is filed seeking to quash Ext.P6 order. On 5.8.2006, an order was passed in E.A.No.151 of 2006 as follows: "Heard. No stay has been obtained so far. Hence deliver the property on 29.8.2006 and call on 31.8.2006". For some reason or the other delivery has not been effected till date. Learned counsel for the petitioner submits that if a breathing time is given to his client to discharge the decree debt, she will pay the entire amount and wipe off the liability so that she can save her residential area and building.

2. Heard learned counsel for the decree holder as well. In all fairness he submits that the bank is only interested in getting the decree amount and it does not want to cause any harassment to the judgment debtor and if she makes payment within a reasonable time. When it is done then the bank has no objection in reconveying the property to her.

3.After hearing both sides, I am inclined to dispose of the writ petition as follows: The delivery shall stand deferred for a period of six

months. The writ petitioner is directed to pay a sum of Rs.20,000/- on or before 30.7.2007 and another Rs.20,000/- before 30.9.2007 and the entire balance amount including the cost of stamp paper, cost, etc. by 30.11.2007. If the entire decree amount is so paid, the decree holder shall retransfer the property in the name of the judgment debtor. If she commits default in making payment of any of the instalments the decree holder will be at liberty to proceed with the execution and get delivery of the property. In order to facilitate the decree holder to avail the remedies the executing court is directed to keep the execution application, E.A.No.151/2006 alive for a period of six weeks.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-